

Attachment 7

Jacob Joseph Spinner

New York, NY

June 12, 2009

Page 1

1 UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF NEW YORK
3 Civil Action Number 06-CV-2621 LTS (DFE)
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5 -----
6 SECURITIES AND EXCHANGE COMMISSION :
7 Plaintiff, :
8 vs. :
9 ANDREAS BADIAN, et al., :
10 Defendants. :
11 -----

12
13
14 Friday, June 12, 2009
15 11:16 a.m.
16

17 Videotaped Deposition of JACOB JOSEPH
18 SPINNER, taken by Plaintiff, pursuant to Notice, held
19 at the offices of The Securities and Exchange
20 Commission, Three World Financial Center, New York,
21 New York, before Patricia Mulligan Carruthers,
22 Certified Shorthand Reporter and Notary Public of the
23 State of New Jersey and Notary Public of the State of
24 New York.
25

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<p>6 MR. GUIDO: Let's go to the audiotapes. 7 I'm going to ask you to listen to some audiotapes, 8 and I'm going to ask you if you can to identify some 9 of the voices, and -- to start out, so that we can 10 confirm certain voices, I want to play a clip from 11 February 21st, 2001, in the range 8:51:05 to 9:25:54, 12 and it's at the Alderson Transcript Page 4, Line 16, 13 through Page 8, Line 8. 14 Mr. Fisher, will you please play the tape? 15 (Whereupon, the audio clip is played.) 16 MR. GUIDO: Stop right there, Mr. Fisher. 17 Q. Do you recognize the voices on that tape? 18 A. No. 19 MR. GUIDO: All right. Pick up. 20 (Whereupon, the audio clip is played.) 21 MR. GUIDO: Stop right there, please. 22 Q. Do you recognize that last voice that 23 says, "Smile an evil smile"? 24 A. No. 25 MR. GUIDO: Pick it up again.</p>	<p>13 Q. Let's go to 2-21-2001. 10:01:56 through 14 10:04:03. Alderson Transcript 131, Line 8, through 15 132, Line 11. 16 MR. ROSS: What's the date of this one? 17 MR. GUIDO: 2-21-01. 18 (Whereupon, the audio clip is played.) 19 MR. GUIDO: Stop right there. 20 Q. Do you recognize those voices? 21 A. One of them sounds like Danny.</p>
<p>Page 55</p> <p>1 J.J. SPINNER 2 (Whereupon, the audio clip is played.) 3 Q. Do you recognize any of the voices on that 4 audio clip? 5 A. One of them appears -- sounds like Danny. 6 Q. One of them, you think, is Danny Graham? 7 A. Sounds like him. 8 MR. GUIDO: Let's play another tape. 9 This is February 21st, 2001. This one is 10 in the clip range 8:56:10 through 10:21:13. It's at 11 the Alderson Transcript Page 58, Line 3, through 61, 12 Line 22. 13 (Whereupon, the audio clip is played.) 14 MR. GUIDO: Stop right there. 15 Q. Do you recognize the voices on that 16 portion of the clip? 17 A. One of them sounds like mine.</p>	<p>Page 57</p>

15 (Pages 54 to 57)

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5 MR. GUIDO: Let's go to 3-2-2001.
6 12:48:53 through 12:59:56. The Alderson Transcript
7 Page 185, Line 1, through 191, Line 8.
8 (Whereupon, the audio clip is played.)
9 MR. GUIDO: Stop right there, please.
10 Q. Do you recognize the voices on that audio
11 clip?
12 A. One sounds like Danny. The other one,
13 which is faint, it could be me, but I would have to
14 listen to a little clearer.

18 MR. GUIDO: Let's go to March 8th, 2001.
19 The range 11:56:38 through 12:23:01. It's Alderson
20 Transcript Page 62, line 18, through Page 64, Line 7.
21 (Whereupon, the audio clip is played.)
22 Q. Do you recognize the voices on that audio
23 clip?
24 A. Danny, I recognize. The only one I could
25 figure out.

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10 MR. GUIDO: Let's go to March 8, 2001.
11 It's a clip range, 11:47:03 through 11:52 and no
12 seconds. It's Alderson Transcript Page 54, Line 20,
13 through 59, Line 16.
14 (Whereupon, the audio clip is played.)
15 Q. Do you recognize the voices on that
16 portion of the clip?
17 A. One is -- sounds like me. The other one
18 sounds like --
19 Q. Danny Graham's father. Didn't it?
20 A. It sounds like him, to some degree.

21 MR. GUIDO: Let's go to March 8, 2001.
22 Transcript range 12:13:44 through 12:17:52. It's the
23 Alderson transcript, at Page 91, Line 14, through 93,
24 Line 10.
25 (Whereupon, the audio clip is played.)

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[illegible][illegible]

21 MR. GUIDO: Let's go to the clip March 26,
22 2001. It's in the range of 10:04:21 through
23 10:24:29. It's at Alderson Page 146, Line 17,
24 through 153, Line 11.
25 (Whereupon, the audio clip is played.)

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[illegible][illegible]

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<p>[REDACTED]</p>	<p style="text-align: right;">Page 68</p> <p>[REDACTED]</p> <p>5 MR. GUIDO: I would like to play a portion 6 of March 26, 2001. It's in the range 10:08:50 7 through 10:12:25. The Alderson Transcript 158, Line 8 8, through 161, Line 17. 9 (Whereupon, the audio clip is played.) 10 MR. GUIDO: Can you cut it right there? 11 Q. Do you recognize – 12 A. The first one, I believe, is Danny, and 13 the second one sounded like Matt.</p> <p>[REDACTED]</p>
<p>[REDACTED]</p>	<p>[REDACTED]</p>

18 (Pages 66 to 69)

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13 MR. GUIDO: Let's go to April 2nd, 2001.
14 It's 2:34:22 through 2:37:22. Alderson 138, Line 12,
15 through 139, 21.

16 (Whereupon, the audio clip is played.)

17 Q. Do you recognize the voices on that audio
18 clip?

19 A. Me, and it sounds like Andreas.

20 MR. GUIDO: Let's go to April 2nd, 2001.
21 The timeframe is 3:50:54 through 3:56:58. Alderson
22 Transcript 156, Line 15, through -- 146, Line 15,
23 through 148, Line 2.

24 (Whereupon, the audio clip is played.)

25 Q. Do you recognize the voices on that audio

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1 J.J. SPINNER

2 clip?

3 A. Myself. I recognize Matt, and I hear
4 myself saying, "Hi, Cliff."

5 Q: Do you recognize Andreas Badian's voice?

6 A. Andreas as well. Correct.

13 MR. GUIDO: I want to play a clip of April
14 2nd, 2001. It's in the range 9:21:44 through
15 9:22:15. Transcript 43, Line 5, through 44, Line 22.

16 (Whereupon, the audio clip is played.)

17 Q. Do you recognize the voices on that audio
18 clip?

19 A. Myself and Andreas.

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<p>[REDACTED]</p> <p>24 MR. GUIDO: I would like to play a clip of</p> <p>25 April 2nd, 2001.</p>	<p>1 J.J. SPINNER</p> <p>2 MR. SOHN: The other one was the 2nd,</p> <p>3 also.</p> <p>4 MR. GUIDO: The other one was the 2nd,</p> <p>5 also.</p> <p>6 MR. ROSS: Thank you.</p> <p>7 (Whereupon, the audio clip is played.)</p> <p>8 Q. Do you recognize the voices on that</p> <p>9 portion of the audiotape?</p> <p>10 A. Myself and Andreas.</p> <p>11 Q. All right.</p> <p>12 MR. GUIDO: I would like to play for you a</p> <p>13 clip of April 3rd, 2001. It's in the range 1:33:57</p> <p>14 through 1:53:19. It's the Alderson transcript at</p> <p>15 Page 96, Line 18, through 97, Line 10.</p> <p>16 (Whereupon, the audio clip is played.)</p> <p>17 MR. GUIDO: Stop right there.</p> <p>18 Q. Do you recognize those voices?</p> <p>19 A. Yes.</p> <p>20 Q. Whose voices?</p> <p>21 A. Mine and my father-in-law.</p> <p>22 MR. GUIDO: All right. Let's pick up</p> <p>23 again.</p> <p>24 (Whereupon, the audio clip is played.)</p> <p>25 Q. Do you recognize those voices?</p>
Page 75	Page 77
<p>1 J.J. SPINNER</p> <p>2 MR. ROSS: Do you want to put the exhibit</p> <p>3 in front of him, still, or --</p> <p>4 MR. GUIDO: No.</p> <p>5 At 10:40:06 to 10:56:15. Alderson</p> <p>6 transcript, at Page 81, Line 10, through 82, Line 11.</p> <p>7 (Whereupon, the audio clip is played.)</p> <p>8 Q. Do you recognize the voices on that</p> <p>9 audiotape?</p> <p>10 A. Myself. Andreas.</p> <p>[REDACTED]</p> <p>20 MR. GUIDO: On April 2nd, 2001, in the</p> <p>21 range 11:37:21 through 11:41:02, at the Alderson</p> <p>22 Transcript 94, Line 11, through 95, Line 16, is a</p> <p>23 clip.</p> <p>24 MR. ROSS: Did we go from the 4th back to</p> <p>25 the 2nd?</p>	<p>1 J.J. SPINNER</p> <p>2 A. That was me and my father-in-law.</p> <p>3 Q. What's your father-in-law's name?</p> <p>4 A. Burt Hochstein.</p> <p>5 Q. Can you spell both names?</p> <p>6 A. B-U-R-T: H-O-C-H-S-T-E-I-N.</p> <p>7 MR. GUIDO: All right. Let's go to a clip</p> <p>8 on the same day, April 3rd, 2001. It's in the time</p> <p>9 range 9:17:06 through 9:30:00. It's at Alderson</p> <p>10 Transcript Page 9 Line 4 through Page 14, Line 6.</p> <p>11 (Whereupon, the audio clip is played.)</p> <p>12 Q. Do you recognize the voices on that audio</p> <p>13 clip?</p> <p>14 A. Myself and Andreas.</p> <p>[REDACTED]</p>

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<p style="text-align: right;">Page 90</p> <p>[REDACTED]</p> <p>21 April 4th, 2001. 9:09:44 through 9:41:13.</p> <p>22 It's at the Alderson Transcript Page 1, Line 4,</p> <p>23 through Page 7, Line 4.</p> <p>24 (Whereupon, the audio clip is played.)</p> <p>25 MR. GUIDO: Stop right there.</p>	<p style="text-align: right;">Page 92</p> <p>[REDACTED]</p> <p>16 MR. GUIDO: Let's go to April 4th, 2001.</p> <p>17 Range 10:39:51 through 10:51:37, and it's Alderson</p> <p>18 Transcript Page 14, Line 4, through Page 16, Line 15.</p> <p>19 (Whereupon, the audio clip is played.)</p> <p>20 MR. GUIDO: Stop right there.</p> <p>21 Q. Do you recognize your voice on that clip?</p> <p>22 A. Yes.</p> <p>[REDACTED]</p>
<p style="text-align: right;">Page 91</p> <p>1 J.J. SPINNER</p> <p>2 Q. Do you recognize the voices on that part</p> <p>3 of the audio clip?</p> <p>4 A. Myself and Andreas.</p> <p>[REDACTED]</p>	<p>[REDACTED]</p>

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Page 94	
5	MR. GUIDO: Let's go to April 5th, 2001.
6	It's in the range 2:18:21 to 2:39:32. It's the
7	Alderson Transcript 107, Line 15, through 119, Line
8	13.
9	(Whereupon, the audio clip is played.)
10	MR. GUIDO: Stop right there, please.
11	Q. Do you recognize the voices on that
12	transcript?
13	A. I recognize mine, and the second one, I'm
14	not certain.

25 (Pages 94 to 97)